

## **COALITION PROVISIONAL AUTHORITY ORDER NUMBER 48**

### **DELEGATION OF AUTHORITY REGARDING AN IRAQI SPECIAL TRIBUNAL**

*Pursuant* to my authority as Administrator of the Coalition Provisional Authority (CPA), and under the laws and usages of war, and consistent with relevant U.N. Security Council resolutions, including Resolution 1483 (2003), Resolution 1500 (2003), and Resolution 1511 (2003),

*Noting* the call in U.N. Security Council Resolution 1483 for accountability for the crimes and atrocities committed by the previous Iraqi regime,

*Acting* on the appeal by the U.N. Security Council in Resolution 1483 to Member States to deny safe haven to those members of the previous Iraqi regime who are alleged to be responsible for crimes and atrocities and to support actions to bring them to justice;

*Acknowledging* that the Governing Council, reflecting the general concerns and interests of the Iraqi people, has expressed a desire to establish a Special Tribunal to try members of the Ba'athist regime accused of atrocities and war crimes,

*Determined* to prevent any threat to public order by revenge actions or vigilantism and to promote the rule of law in accordance with applicable international law,

I hereby promulgate the following:

#### **Section 1 Delegation of Authority**

- 1) The Governing Council is hereby authorized to establish an Iraqi Special Tribunal (the "Tribunal") to try Iraqi nationals or residents of Iraq accused of genocide, crimes against humanity, war crimes or violations of certain Iraqi laws, by promulgating a statute, the proposed provisions of which have been discussed extensively between the Governing Council and the CPA and are set forth at Appendix A.
- 2) The statute shall establish the Tribunal, including its chambers, and set forth its jurisdiction, competence, and organization;
- 3) The statute shall provide rules for the appointment of qualified judges, prosecutors, and a director of administration.
- 4) The Governing Council shall be authorized to promulgate elements of crimes, the provisions of which shall be coordinated with the CPA.

5) The Governing Council may delegate to the judges of the Tribunal the power to promulgate rules of procedure, the provisions of which shall be coordinated with the Governing Council and the CPA.

6) The Administrator reserves the authority to alter the statute creating the Iraqi Special Tribunal, or any elements of crimes or rules of procedure developed for the Tribunal, if required in the interests of security.

## **Section 2**

### **Terms and Conditions**

The authority delegated under Section 1 of this Order shall be subject to the following terms and conditions:

1) The Governing Council will ensure that it promulgates a description of the elements that will apply to the crimes listed in the statute establishing the Tribunal, and that these elements are consistent with Iraqi law, as modified by CPA Orders, and international law.

2) The Governing Council will ensure that the Tribunal meets, at a minimum, international standards of justice.

3) In the event that, prior to the final transfer of governance authority to the transitional Iraqi administration, a conflict arises between any promulgation by the Governing Council or any ruling or judgment by the Tribunal and any promulgation of the CPA, the promulgation of the CPA shall prevail.

4) Non-Iraqi nationals may be appointed as judges of the Special Tribunal.

## **Section 3**

### **Effective Date**

This Order shall enter into force on the date of signature and shall remain in force unless rescinded in writing by me or until the establishment of a representative, internationally recognized government of Iraq.

 12/10/03

L. Paul Bremer III  
Administrator